APPENDIX

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The Fourth Amendment to the Constitution of the United States

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATUTES

Federal Rules of Criminal Procedure, Rule 4(a)

Rule 4. Warrant or Summons upon Complaint

(a) Issuance. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue to any officer authorized by law to execute it. Upon the request of the attorney for the government a summons instead of a warrant shall issue. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

Federal Rules of Criminal Procedure, Rule 41(c) and (e)

Rule 41. Search and Seizure

(c) Issuance and Contents. A warrant shall issue only on affidavit sworn to before the judge or commissioner and establishing the grounds for issuing the warrant. If the judge or commissioner is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place

to be searched. The warrant shall be directed to a civil officer of the United States authorized to enforce or assist in enforcing any law thereof or to a person so authorized by the President of the United States. It shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof. It shall command the officer to search forthwith the person or place named for the property specified. The warrant shall direct that it be served in the daytime, but if the affidavits are positive that the property is on the person or in the place to be searched, the warrant may direct that it be served at any time. It shall designate the district judge or the commissioner to whom it shall be returned.

(e) Motion for Return of Property and to Suppress Evidence. A person aggrieved by an unlawful search and seizure may move the district court for the district in which the property was seized for the return of the property and to suppress for the use as evidence anything so obtained on the ground that (1) the property was illegally seized without warrant, or (2) the warrant is insufficient on its face, or (3) the property seized is not that described in the warrant, or (4) there was not probable cause for believing the existence of the grounds on which the warrant was issued, or (5) the warrant was illegally executed. The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention and it shall not be admissible in evidence at any hearing or trial. The motion to suppress evidence may also be made in the district where the trial is to be had. The motion did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.

The Act of March 3, 1901, c. 854, § 863a as added by Act of April 5, 1938, 52 Stat. 198, c. 72 § 2, and amended

No. 19,198

John C. Renner, *Appellant,*

v.

United States of America, *Appellee.*

No. 19,199

Fedora A. Flanagan, *Appellant,*

v.

United States of America, *Appellee.*

Appeals from the United States District Court for the District of Columbia.

Before: Washington, Wright and McGowan, Circuit Judges.

Judgment

These causes came on to be heard on the records on appeal from the United States District Court for the District of Columbia, and were argued by counsel.

On consideration whereof it is ORDERED AND ADJUDGED by this court that the judgments of the District Court appealed from in these cases be, and they are hereby, affirmed.

PER CURIAM

Dated: September 21, 1965.